Statement of William F. Weld
United States House Committee on the Judiciary
Wednesday, December 9, 1998

1. My name is William F. Weld. I have been an attorney at law since 1970. I am a former federal prosecutor (1981-1988) and was a staff attorney for this Committee in its 1974 impeachment inquiry.

2. From 1986 to 1988 I served as the Assistant Attorney General in charge of the Criminal Division of the U.S. Department of Justice, Washington, D.C. The Assistant Attorney General in charge of the Criminal Division is the Presidential appointee responsible for ensuring that uniform standards are applied in the charging decisions of federal prosecutors throughout the United States. He or she must also approve all wiretaps, all formal grants of immunity, and all indictments in certain major categories of cases, in order to ensure uniformity of decision-making.

3. From 1981 to 1986 I served as the United States Attorney for the District of Massachusetts. The United States Attorney is

the Presidential appointee responsible for charging decisions – that is, decisions whether to seek an indictment – in each state or district.

4. During my service in the Justice Department, I became familiar with the departmental handbook Principles of Federal Prosecution, with the United States Attorney's Manual, and with practices and procedures administratively established in Washington which guided the discretion of federal prosecutors at the charging stage of the criminal justice process.

5. From January 1974 until August 1974, I served as Associate Minority Counsel to the United States House Committee on the Judiciary in its impeachment inquiry. The Committee eventually approved three articles of impeachment against then President Richard M. Nixon.

6. I served in the "constitutional and legal" unit of the impeachment inquiry staff. In that capacity I had occasion to review all reported British precedents bearing on the meaning of the

phrase "high crimes and misdemeanors" as it appears in the impeachment clause of the U.S. Constitution, all four volumes of Farrand's Records of the Constitutional Convention of 1787, all accounts relating to U.S. impeachment proceedings in the Congressional Globe, Congressional Record, Hinds' Precedents, and Cannon's Precedents, and all U.S. Supreme Court decisions (as of that date) relating to the so-called "political question" doctrine. I was one of the authors of the 1974 staff report relating to what constitutes grounds for impeachment and removal of a President under the U.S. Constitution.

7. I believe that during the Reagan Administration, it was not the policy of the U.S. Department of Justice to seek an indictment based solely on evidence that a prospective defendant had committed adultery or fornication.

8. I believe that during the Reagan Administration, it was not the policy of the U.S. Department of Justice to seek an indictment based solely on evidence that a prospective

defendant had falsely denied committing adultery or fornication.

9. Until recently, the Justice Department's policy in cases of perjury or making a false statement was that a prosecution should not be based solely on a false denial of wrongdoing by the declarant. This was called the "exculpatory no" doctrine. I believe it was a judicially created doctrine, later reflected in Justice Department practice, which derived from considerations similar to those which underlie the privilege against self-incrimination contained in the fifth amendment to the U.S. Constitution. I believe the "exculpatory no" doctrine was abrogated by the U.S. Supreme Court in 1998 in a case involving a false denial by a union official that he had accepted unlawful cash payments from an employer in violation of a federal statute.

10. I do not believe that adultery, fornication, or a false denial of adultery or fornication constitute "high crimes and misdemeanors" within the meaning of the impeachment clause of the United States Constitution.